

Exhibit “A”

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occurred in McLennan, Texas, which is in the Waco Division of the Western District of Texas.
28 U.S.C. § 1391(a)(2).

II. PARTIES

3. Home Depot U.S.A., Inc. (“Home Depot”) has already made an appearance in this case as a Defendant.

4. Technibilt has already made an appearance in this case as a Defendant and can be served by service on its counsel of record in this lawsuit.

III. BACKGROUND INFORMATION

5. On behalf of himself and as next friend of C.I.E., his minor son, Plaintiff, Jerry Ellison, in his Original Petition, alleges causes of action for negligence, strict liability, breach of warranty, and gross negligence against Technibilt and Home Depot regarding a shopping cart allegedly designed and manufactured by Technibilt and available for customer use at Home Depot.

6. In his Original Petition, Jerry Ellison alleges that after he completed his shopping at Home Depot, he leaned in to hug his son, who was in the child seat of the shopping cart, and the cart tipped rearward, causing injuries to his son. (hereinafter referred to as the “occurrence in question”).

7. Jerry Ellison alleges damages on behalf of himself and C.I.E. as a result of the occurrence in question.

IV. CLAIM UNDER TEXAS CIVIL PRACTICE & REMEDIES CODE § 32.001, ET. SEQ.

8. Section 32.002 of the Texas Civil Practice and Remedies Code provides that a person against whom a judgment is rendered has, on payment of the judgment, a right of action to recover payment from each co-defendant against whom judgment is also rendered. TEX. CIV. PRAC.

& REM. CODE § 32.001, *et seq.*. Furthermore, Section 33.016 allows a defendant to seek contribution from any counterdefendant.

9. By the live Petition filed in this cause, Plaintiff alleges that his son sustained personal injuries when the shopping cart he was using tipped over. Home Depot denies any wrongful conduct occurred as alleged; however, Home Depot avers that if any such conduct was committed, it was committed by Technibilt, by and through its design and/or manufacture of the shopping cart. Accordingly, although Plaintiff's claims against Home Depot and Technibilt are without merit, Home Depot seeks contribution from Technibilt for any liability that Home Depot may be adjudged to have to Plaintiff.

V. **DAMAGES**

10. Home Depot respectfully requests that the following damages be considered for the purpose of determining the sum of money to which Home Depot is entitled to recover from Technibilt:

(a) The amount of damages, if any, awarded to the Plaintiff by the trier of fact against Home Depot.

WHEREFORE, Defendant Home Depot U.S.A., Inc. respectfully prays that Plaintiff take nothing by this action, or, in the alternative, that should the trier of fact award any damages on behalf of Plaintiff against Defendant Home Depot U.S.A., Inc., Home Depot be awarded contribution as allowed by law against Technibilt, Ltd., and all other relief to which it may be justly entitled.

Respectfully submitted,

LAW OFFICES OF ARTHUR K. SMITH,
a Professional Corporation

By: _____

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ATTORNEYS FOR DEFENDANT
HOME DEPOT U.S.A., INC.

CERTIFICATE OF SERVICE

On this the ____ day of May, 2008, a true and correct copy of the above and foregoing pleading was delivered electronically using the Court's Electronic Case Filing System to all counsel of record.

Arthur K. Smith

150008.300\Cross-Claim